

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

IVAN MENDEZ,

Plaintiff,

3:12-cv-765-CL

v.

STATE OF OREGON, et al.,

Defendant,

ORDER TO PROCEED IN FORMA
PAUPERIS AND ORDER TO DISMISS

AIKEN. District Judge.

Plaintiff filed a civil complaint which apparently includes a request to proceed in forma pauperis. Plaintiff's request for in forma pauperis status is allowed. Plaintiff may proceed without the prepayment of fees. However, for the reasons set forth below, plaintiff's complaint is dismissed, without service of process, on the basis that it is frivolous. See 28 U.S.C. § 1915(d).

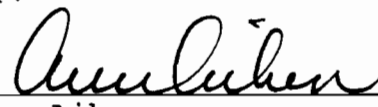
Plaintiff, an inmate in the James T. Vaughn Correctional Center in Smyrna, Delaware, filed a 5 page handwritten "complaint" that is completely incomprehensible.

A complaint filed in *forma pauperis* may be dismissed before service of process if it is deemed frivolous under 28 U.S.C. § 1915(d). Neitzke v. Williams, 490 U.S. 319, 324 (1989); Jackson v. State of Ariz., 885 F.2d 639, 640 (9th Cir. 1989). A complaint is frivolous "where it lacks an arguable basis in law or in fact." Nietzke, 490 U.S. at 325; Lopez v. Dept. of Health Services, 939 F.2d 881, 882 (9th Cir. 1991); Jackson, 885 F.2d at 640. The term "'frivolous' . . . embraces not only the inarguable legal conclusion, but also the fanciful factual allegation." Neitzke, 490 U.S. at 325 (footnote omitted);

"Baseless" claims subject to sua sponte dismissal include those "describing fantastic or delusional scenarios." Neitzke, 490 U.S. at 328; Denton, 112 S.Ct. at 1733; McKeever, 932 F.2d at 798. "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible." Denton, 112 S.Ct. at 1733.

I find that the factual allegations in the instant case are irrational and wholly incredible. Regardless of how liberally the complaint is construed, the allegations fail to state a claim. Accordingly, the complaint is dismissed. Because it is apparent that the deficiencies of the complaint cannot be cured by amendment, the dismissal is with prejudice.

DATED this 4th day of May, 2012.


 Ann Aiken
 United States District Judge